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09/641,866	08/18/2000	Charles E. Bernasconi	087354-0108	7547
22428 7590 12/17/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
RAPILLO, KRISTINE K				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/641,866

**Applicant(s)**

BERNASCONI ET AL.

**Examiner**

KRISTINE K. RAPILLO

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 88-92, 97-110 and 113-122 is/are pending in the application.
- 4a) Of the above claim(s) 1-87, 93-96, 111-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 88-92, 97-110 and 113-122 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/30/2004; 11/4/2004; 5/21/2007; 9/26/2008.

## DETAILED ACTION

### *Notice to Applicant*

1. This communication is in response to the Request for Continued Examination (RCE) filed November 10, 2008. Claims 93 – 96 and 111 – 112 are cancelled. Claims 88 – 92, 97 – 110, and 113 – 118 are amended. Claims 119 – 122 are new. Claims 88 – 92, 97 – 110, and 113 – 122 are presented for examination.

### *Request for Continued Examination*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 10, 2008 has been entered.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 88 – 92, 97 – 110, and 113 – 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al., herein after Clark (U.S. Patent Number 5,164,897) in view of Thompson et al., herein after Thompson (U.S. Patent Number 6,334,133).

In regard to claim 88 (Currently amended), Clark teaches a system comprising:

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- one or more databases having information about a plurality of open positions and qualifications for the open positions (column 16, line 67 through column 17, line 12), qualifications of a plurality of workers (claim 1)
- one or more computers (Figure 1C and column 4, lines 16 – 36) configured with:
  - a component for filtering electronically open positions in the one or more databases to determine, for each of a plurality of the respective workers, one or more of the open positions for which the respective worker is qualified (Abstract and column 4, lines 55 through column 5, line 20) where Clark describes at least three databases in which a search is conducted by searching through the first database versus the workers qualifications, the second database and the workers qualifications, and the third database versus the workers qualifications; thus filtering the prospective workers qualifications by selecting only those workers who match the requirements set forth in each of the three databases;
  - a component for receiving a message about an a specific open position that includes a designation of one of the workers who is qualified for the specific open position as a preferred worker (claim 1); and,
  - a component for updating electronically the information to include information on the specific open position and the designation of the preferred worker (column 9, line 60 through column 10, line 18).

Clark fails to teach a system comprising: one or more databases having a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers; and a component for posting on the respective web page associated only with the respective worker those one or more open positions; a component for receiving a message; a component for notifying the preferred worker who was designated of the specific open position by at least posting information about the specific open position at least to the web page associated only with the preferred worker who was designated and the specific open position being specially marked on this web page thus differentiating the specific open position from other open positions listed on the web page associated only

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with the preferred worker; a component for automatically assigning the specific open position only to the preferred worker in substantially immediate response to receipt of an electronic selection of the specific open position from the preferred worker during a specified time period; and a component for automatically assigning the specific open position to any qualified worker in substantially immediate response to receipt of an electronic selection of the specific open position from that qualified worker if the preferred worker who was designated has not selected the specific open position before expiration of the specified time period.

Thompson teaches a system comprising:

one or more databases having a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers (Figure 9; column 9, lines 10 - 23; and Claim 6) where it is inherent that the use of a password by a worker indicates that the web page presented is associated with only the worker currently logged in;

a component for posting on the respective web page associated only with the respective worker those one or more open positions (claim 9, lines 10 – 23 and claims 1 and 6);

a component for notifying the preferred worker who was designated of the specific open position by at least posting information about the specific open position at least to the web page associated only with the preferred worker who was designated and the specific open position being specially marked on this web page thus differentiating the specific open position from other open positions listed on the web page associated only with the preferred worker (Figure 2; column 9, lines 24 – 42)

a component for automatically assigning the specific open position only to the preferred worker in substantially immediate response to receipt of an electronic selection of the specific open position from the preferred worker during a specified time period (column 2, lines 20 – 33); and

a component for automatically assigning the specific open position to any qualified worker in substantially immediate response to receipt of an electronic selection of the specific open position from that qualified worker if the preferred worker who was designated has not selected the specific open position before expiration of the specified time period (claim 1) where Thompson discloses that a list is generated automatically of substitute employees once an absence is known.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include one or more databases having a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers; and a component for posting on the respective web page associated only with the respective worker those one or more open positions; a component for receiving a message a component for notifying the preferred worker who was designated of the specific open position by at least posting information about the specific open position at least to the web page associated only with the preferred worker who was designated and the specific open position being specially marked on this web page thus differentiating the specific open position from other open positions listed on the web page associated only with the preferred worker; a component for automatically assigning the specific open position only to the preferred worker in substantially immediate response to receipt of an electronic selection of the specific open position from the preferred worker during a specified time period; and a component for automatically assigning the specific open position to any qualified worker in substantially immediate response to receipt of an electronic selection of the specific open position from that qualified worker if the preferred worker who was designated has not selected the specific open position before expiration of the specified time period as taught by Thompson, within the system of Clark, with the motivation of providing a computerized tool for placement of workers (column 10, lines 32 - 41).

In regard to claim 89 (Currently amended), Clark and Thompson teach the system of claim 88. Clark further teaches a system wherein each web page associated with a worker lists each open position that the worker is able to accept (column 4, line 55 through column 5, line 20; column 16, line 67 through column 17, line 12; and, claim 1).

Thompson teaches a web page associated with a worker (Figure 9; column 9, lines 10 – 23; and, claim 6).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

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In regard to claim 90 (Currently amended), Clark and Thompson teach the system of claim 88. Clark further teaches a system wherein each web page associated with a worker lists only the open positions that the worker is qualified to fill (Abstract; Figure 9; and column 7, lines 59 – 65).

Thompson teaches a web page associated with a worker (Figure 9; column 9, lines 10 – 23; and, claim 6).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 91 (Currently amended), Clark and Thompson teach the system of claim 88. Clark further teaches a system wherein each web page associated with a worker lists only the open positions that the worker is qualified to fill and that pass through a filter that filters out open positions for which the temporary employee has been rejected (Abstract and column 4, line 55 through column 5, line 20).

Thompson teaches a web page associated with a worker (Figure 9; column 9, lines 10 – 23; and, claim 6).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 92 (Currently amended), Clark and Thompson teach the system of claim 88. Thompson further teaches a system wherein the workers are substitute teachers (column 8, lines 14 – 63).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 101 (Currently amended), Clark and Thompson teach the method of claim 97. Clark further teaches a system comprising allowing access to the webpage associated with a worker in



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response to receiving at least one pass code and verifying the received at least one pass code (column 2, lines 66 – 68 and column 10, lines 19 – 40).

Thompson teaches a web page associated with a worker (Figure 9; column 9, lines 10 – 23; and, claim 6).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 103 (Currently amended), Clark and Thompson teach the system of claim 88. Clark further teaches a system with the one or more of computers configured so that each web page associated with a worker lists only the open positions that the worker is qualified to fill and has not been rejected by a worker whose absence creates the specific open position (Abstract and column 4, line 55 through column 5, line 20).

Thompson teaches a web page associated with a worker (Figure 9; column 9, lines 10 – 23; and, claim 6).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 104 (Currently amended), Clark and Thompson teach the system of claim 88. Thompson further teaches a system with the one or more of computers further configured to receive an administrative designation of a worker who has accepted an open position at a location, for another open position at the same location for a different day (column 4, lines 65 through column 5, line 4 and column 10, lines 8 - 20) where acceptance of a position, regardless of the location is documented. The summary of position acceptance will list the locations of positions accepted (Figures 10 and 12).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 105 (Currently amended), Clark and Thompson teach the system of claim 88. Thompson further teaches a system with the one or more of computers configured to post information about the specific open position only to the web page associated with the preferred worker (column 6, lines 25 – 42 and column 8, lines 15 – 63).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 109 (Currently amended), Clark and Thompson teach the system of claim 88. Thompson further teaches a system with the one or more of computers further configured to notify the preferred worker via e-mail or e-pager (column 9, lines 24 – 42).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 113 (Currently amended), Clark and Thompson teach the system of claim 88. Thompson further teaches a system with the one or more of computers further configured to post an assignment of the specific open position automatically after receiving an electronic acceptance of the specific open position from the preferred worker (column 4, line 65 through column , line 4).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 115 (Currently amended), Clark teaches a system comprising:

- one or more databases having information about a plurality of open positions and qualifications for the open positions (column 16, line 67 through column 17, line 12), qualifications of a plurality of workers (claim 1),
- a one or more computers (Figure 1C and column 4, lines 16 – 36) configured with:

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- a component for updating one or more of the databases with information to include information on the one or more open positions (column 9, line 60 through column 10, line 18);
- a component for filtering one or more of the open positions for each of a plurality of workers, wherein the filtering comprises for each particular worker, determining based on the qualifications for the respective open positions and the qualifications of the particular worker only one or more open positions for which the particular worker is qualified (Abstract and column 4, line 55 through column 5, line 20);

Clark fails to teach a system comprising one or more databases having and a plurality of web pages, with each different respective web page in this plurality is associated only with a different one of the respective workers; one or more computers configured with a component for receiving a message about one or more new open positions; one or more computers configured with a component for receiving a message about one or more new open positions; a component for notifying each particular worker by at least posting position data on the respective web page associated only with the particular worker based on the filtering component, wherein the position data comprises for the particular worker the one or more open positions for which that particular worker associated with the web page is qualified; a component for receiving an electronic response from the particular worker selecting a position of which the particular worker was notified; and, a component for automatically assigning by computer the position that was selected to the worker in substantially immediate response to receipt of an electronic selection of the position from that worker and removing immediately the position selected as an available open position.

Thompson teaches a system comprising:

one or more databases having a plurality of web pages, with each different respective web page in this plurality is associated only with a different one of the respective workers (Figure 9; column 9, lines 10 – 23; and, Claim 6);

one or more computers configured with a component for receiving a message about one or more new open positions (column 9, lines 24 – 42);

a component for notifying each particular worker by at least posting position data on the respective web page associated only with the particular worker based on the filtering component, wherein the position data comprises for the particular worker the one or more open positions for which that particular worker associated with the web page is qualified (Figure 2 and column 9, lines 24 – 42); and,

a component for receiving an electronic response from the particular worker selecting a position of which the particular worker was notified (Figures 2 and 10; column 4, line 54 through column 5, line 4 and column 10, lines 8 – 20); Thompson discloses a webpage thus it would be obvious to conclude that the worker can electronically accept a position;

a component for automatically assigning by computer the position that was selected to the worker in substantially immediate response to receipt of an electronic selection of the position from that worker (Claim 1) and removing immediately the position selected as an available open position (column 9, line 59 through column 10, line 7).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 116 (Currently amended), Clark and Thompson teach the system of claim 115. Thompson further teaches a system with the one or more of computers further configured to post an assignment of the position automatically after receiving an electronic acceptance of the position from the one of the workers (column 4, line 65 through column 5, line 4 and column 10, lines 8 – 20).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 120 (New), Clark and Thompson teach the system of claim 115. Thompson further teaches a system further comprising means for notifying electronically each of one or more workers based on the filtering component about at least one new open position (Figure 2; column 6, lines 3 – 23 and column 9, lines 24 – 42).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

In regard to claim 121 (New), Clark and Thompson teach the system of claim 88. Thompson further teaches a system comprising means for notifying electronically the preferred worker about the specific open position (Figure 2; column 6, lines 3 - 23; and, column 9, lines 24 - 42).

The motivation to combine the teachings of Clark and Thompson is discussed in the rejection of claim 88, and incorporated herein.

Method claims 97 - 100, 102, 106 - 108, 110, 114, 117 - 119, and 122 repeat the subject matter of system claims 88 - 92, 103 - 105, 109, 113, 116 - 116, and 120 - 121 as a series of steps rather than a set of apparatus elements. As the underlying elements of claim 88 - 92, 103 - 105, 109, 113, 116 - 116, and 120 - 121 have been shown to be fully disclosed by the teachings of Clark and Thompson in the above rejections of claim 88 - 92, 103 - 105, 109, 113, 116 - 116, and 120 - 121, it is readily apparent that the system disclosed by Clark and Thompson performs these steps. As such, these limitations (97 - 100, 102, 106 - 108, 110, 114, 117 - 119, and 122) are rejected for the same reasons above for the system claims 88 - 92, 103 - 105, 109, 113, 116 - 116, and 120 - 121, and incorporated herein.

#### ***Response to Arguments***

5. Applicant's arguments filed November 10, 2008 have been fully considered but they are not persuasive with respect to claims 88 - 92, 97 - 110, and 113 - 118. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed November 10, 2008.
6. In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art to the amended claims 88 - 92, 97 - 110, and 113 - 118. The Examiner notes that the amended limitations were not in the previously pending claims as such; Applicant's remarks with regard to the application of Thompson and Mitsuoka to the amended limitations are moot in light of the addition of the Clark reference.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626